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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/626,710 | 07/25/2003 | Costanzo Lorenzotti | 001US1 | 1892 |
| 21254 | 7590 | 03/10/2005 | EXAMINER | |
| MCGINN & GIBB, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817 | | | MATZEK, MATTHEW D | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1771 | |

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/626,710

Applicant(s)

LORENZOTTI ET AL.

Examiner

Matthew D. Matzek

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-13 and 18-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Election/Restrictions

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-13, drawn to a method of making a fabric, classified in class 28, subclass various.
- II. Claims 14-17, drawn to a fabric, classified in class 442, subclass 327.
- III. Claims 18-20, drawn to an apparatus to make a fabric, classified in class 57, subclass 1R.

The inventions are distinct, each from the other because of the following reasons:

1. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case natural fibers may be needle-punched to form web having a predetermined weight. This constitutes a materially different process than listed in Invention I, claims 1-13, but produces the article of Invention II.
2. Inventions III and I are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product or (2) that the product as claimed can be made by another and

materially different apparatus (MPEP § 806.05(g)). In this case the natural fabric of Invention I may be formed by hand. This constitutes a materially different apparatus capable of making the article of Invention I.

3. Inventions II and III are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the article of Invention I may be made by hand. This constitutes a materially different process capable of making the article of Invention I.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

5. During a telephone conversation with Sean McGinn on 2/10/2005 a provisional election was made with traverse to prosecute the invention of a fabric, claims 14-17. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-13 and 18-20 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

7. Claims 14-17 are objected to because of the following informalities: It is unclear as to what is intended by Applicant's use of "woven/non-woven". The Examiner has taken the position that "woven/non-woven" is intended to mean woven or non-woven. Please clarify and appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Quantrille et al. (US Patent 5,431,991).

9. Quantrille et al. disclose a process of hydroentangling cotton staple fibers to form a web (col. 3, lines 30-37). Typically the web will have a basis weight ranging between 15 grams per square meter (gsm) to 200 gsm (col. 5, lines 16-20). With regard to the limitation that the natural fibers comprise waste fibers, it is the Examiner's position that the source of the fibers is not relevant since the composition of the fiber would presumably be the same, whether they were waste fibers or not.

10. Claims 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Cohen et al. (US Patent 5,736,473).

11. Cohen et al. disclose a fibrous composite structure with a basis weight of from about 6 to 400 gsm (col. 6, lines 5-10). The fibrous composite may contain hydroentangled cotton staple fibers (col. 9, lines 25-32). With regard to the limitation that the natural fibers comprise waste

fibers, it is the Examiner's position that the source of the fibers is not relevant since the composition of the fiber would presumably be the same, whether they were waste fibers or not.

12. Claims 14-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Evans et al. (US Patent 3,494,821).

13. Evans et al. disclose a nonwoven fabric of highly entangled staple fibers via hydraulic entangling (Abstract). The suitable "staple" fibers of the applied patent may have a length of from about 6mm. to 15 cm. include cotton fibers (col. 3, lines 20-37). The examples disclosed in the applied patent have basis weights that range from 17 to 65 gsm. With regard to the limitation that the natural fibers comprise waste fibers, it is the Examiner's position that the source of the fibers is not relevant since the composition of the fiber would presumably be the same, whether they were waste fibers or not.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

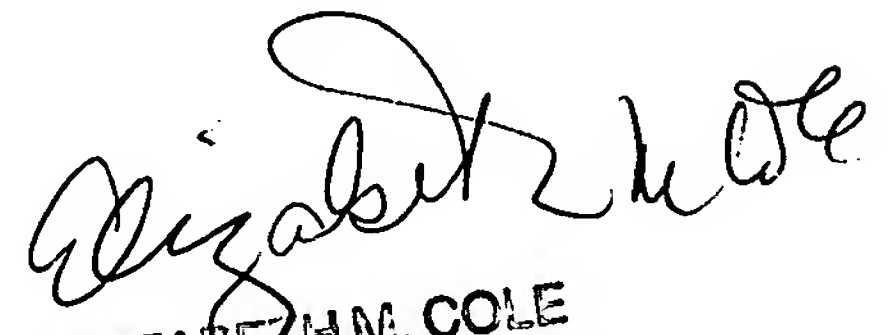
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Matzek whose telephone number is (571) 272-2423. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mdm



ELIZABETH M. COLE
PRIMARY EXAMINER